

other than this paragraph (n)(3) by attaching to the taxpayer's return (or amended return) for the first taxable year beginning after December 31, 1986, a statement to that effect, prominently identified as an election out under § 1.163-8T(n)(3).

(ix) *Special rule for partnerships and S corporations.* For purposes of paragraph (n)(3)(ii)(B), (v), (vii) and (viii) of this section (relating to the allocation of debt and election out), a partnership or S corporation shall be treated as the taxpayer with respect to the debt of the partnership or S corporation.

(x) *Irrevocability.* An allocation or election filed in accordance with paragraph (n)(3) (vii) or (viii) of this section may not be revoked or modified except with the consent of the Commissioner.

[T.D. 8145, 52 FR 24999, July 2, 1987, as amended by T.D. 8145, 62 FR 40270, July 28, 1997]

§ 1.163-9T Personal interest (temporary).

(a) *In general.* No deduction under any provision of Chapter 1 of the Internal Revenue Code shall be allowed for personal interest paid or accrued during the taxable year by a taxpayer other than a corporation.

(b) *Personal interest—(1) Definition.* For purposes of this section, personal interest is any interest expense other than—

(i) Interest paid or accrued on indebtedness properly allocable (within the meaning of § 1.163-8T) to the conduct of trade or business (other than the trade or business of performing services as an employee),

(ii) Any investment interest (within the meaning of section 163(d)(3)),

(iii) Any interest that is taken into account under section 469 in computing income or loss from a passive activity of the taxpayer,

(iv) Any qualified residence interest (within the meaning of section 163(h)(3) and § 1.163-10T), and

(v) Any interest payable under section 6601 with respect to the unpaid portion of the tax imposed by section 2001 for the period during which an extension of time for payment of such tax is in effect under section 6163, 6166, or 6166A (as in effect before its repeal by the Economic Recovery Tax Act of 1981).

(2) *Interest relating to taxes—(i) In general.* Except as provided in paragraph (b)(2)(iii) of this section, personal interest includes interest—

(A) Paid on underpayments of individual Federal, State or local income taxes and on indebtedness used to pay such taxes (within the meaning of § 1.163-8T), regardless of the source of the income generating the tax liability;

(B) Paid under section 453(e)(4)(B) (interest on deferred tax resulting from certain installment sales) and section 1291(c) (interest on deferred tax attributable to passive foreign investment companies); or

(C) Paid by a trust, S corporation, or other pass-through entity on underpayments of State or local income taxes and on indebtedness used to pay such taxes.

(ii) *Example.* A, an individual, owns stock of an S corporation. On its return for 1987, the corporation underreports its taxable income. Consequently, A underreports A's share of that income on A's tax return. In 1989, A pays the resulting deficiency plus interest to the Internal Revenue Service. The interest paid by A in 1989 on the tax deficiency is personal interest, notwithstanding the fact that the additional tax liability may have arisen out of income from a trade or business. The result would be the same if A's business had been operated as a sole proprietorship.

(iii) *Certain other taxes.* Personal interest does not include interest—

(A) Paid with respect to sales, excise and similar taxes that are incurred in connection with a trade or business or an investment activity;

(B) Paid by an S corporation with respect to an underpayment of income tax from a year in which the S corporation was a C corporation or with respect to an underpayment of the taxes imposed by sections 1374 or 1375, or similar provision of State law; or

(C) Paid by a transferee under section 6901 (tax liability resulting from transferred assets), or a similar provision of State law, with respect to a C corporation's underpayment of income tax.

(3) *Cross references.* See § 1.163-8T for rules for determining the allocation of interest expense to various activities.

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See § 1.163-10T for rules concerning qualified residence interest.

(c) *Effective date*—(1) *In general*. The provisions of this section are effective for taxable years beginning after December 31, 1986. In the case of any taxable year beginning in calendar years 1987 through 1990, the amount of personal interest that is nondeductible under this section is limited to the applicable percentage of such amount.

(2) *Applicable percentages*. The applicable percentage for taxable years beginning in 1987 through 1990 are as follows:

1987: 35 percent
1988: 60 percent
1989: 80 percent
1990: 90 percent

[T.D. 8168, 52 FR 48409, Dec. 22, 1987; 68 FR 13226, Mar. 19, 2003]

§ 1.163-10T Qualified residence interest (temporary).

(a) *Table of contents*. This paragraph (a) lists the major paragraphs that appear in this § 1.163-10T.

- (a) Table of contents.
- (b) Treatment of qualified residence interest.
- (c) Determination of qualified residence interest when secured debt does not exceed the adjusted purchase price.
 - (1) In general.
 - (2) Examples.
- (d) Determination of qualified residence interest when secured debt exceeds adjusted purchase price—Simplified method.
 - (1) In general.
 - (2) Treatment of interest paid or accrued on secured debt that is not qualified residence interest.
 - (3) Example.
- (e) Determination of qualified residence interest when secured debt exceeds adjusted purchase price—Exact method.
 - (1) In general.
 - (2) Determination of applicable debt limit.
 - (3) Example.
 - (4) Treatment of interest paid or accrued with respect to secured debt that is not qualified residence interest.
 - (i) In general.
 - (ii) Example.
 - (iii) Special rule of debt is allocated to more than one expenditure.
 - (iv) Example.
- (f) Special rules.
 - (1) Special rules for personal property.
 - (i) In general.

- (ii) Example.
- (2) Special rule for real property.
 - (i) In general.
 - (ii) Example.
- (g) Selection of method.
- (h) Average balance.
 - (1) Average balance defined.
 - (2) Average balance reported by lender.
 - (3) Average balance computed on a daily basis.
 - (i) In general.
 - (ii) Example.
 - (4) Average balance computed using the interest rate.
 - (i) In general.
 - (ii) Points and prepaid interest.
 - (iii) Examples.
 - (5) Average balance computed using average of beginning and ending balance.
 - (i) In general.
 - (ii) Example.
 - (6) Highest principal balance.
 - (7) Other methods provided by the Commissioner.
 - (8) Anti-abuse rule.
- (i) [Reserved]
- (j) Determination of interest paid or accrued during the taxable year.
 - (1) In general.
 - (2) Special rules for cash-basis taxpayers.
 - (i) Points deductible in year paid under section 461(g)(2).
 - (ii) Points and other prepaid interest described in section 461(g)(1).
 - (3) Examples.
- (k) Determination of adjusted purchase price and fair market value.
 - (1) Adjusted purchase price.
 - (i) In general.
 - (ii) Adjusted purchase price of a qualified residence acquired incident to divorce.
 - (iii) Examples.
 - (2) Fair market value.
 - (i) In general.
 - (ii) Examples.
 - (3) Allocation of adjusted purchase price and fair market value.
- (l) [Reserved]
- (m) Grandfathered amount.
 - (1) Substitution for adjusted purchase price.
 - (2) Determination of grandfathered amount.
 - (i) In general.
 - (ii) Special rule for lines of credit and certain other debt.
 - (iii) Fair market value limitation.
 - (iv) Examples.
 - (3) Refinancing of grandfathered debt.
 - (i) In general.
 - (ii) Determination of grandfathered amount.
 - (4) Limitation on terms of grandfathered debt.
 - (i) In general.
 - (ii) Special rule for nonamortizing debt.